

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

**WHITE CAP CONSTRUCTION
SUPPLY, INC.,**

Plaintiff,

vs.

**TIGHTON FASTENER AND SUPPLY
CORPORATION d/b/a Tighton Tools &
Fasteners, Inc.; MATT UPDIKE; MIKE
NENEMAN; RICH WHITE; GREG
ASCHE; JASON JARZYNKA; and BILL
SHUMAKER,**

Defendants.

8:08CV264

ORDER

For good cause shown,

IT IS ORDERED that the parties' Joint Motion for extension of deadlines (#56) is granted, and the Final Progression Order (#56) is amended, as follows:

1. **Deposition Deadline.** All depositions, whether or not they are intended to be used at trial, shall be completed by **June 14, 2010**.

2. **Discovery Motions.** Discovery motions shall be filed not later than **June 14, 2010**. Counsel are reminded of the provisions of NECivR 7.0.1(i).

3. **Disclosure of Expert Witnesses.** Each plaintiff, counter-claimant, and cross-claimant shall, as soon as practicable but not later than **February 1, 2010**, serve all opposing parties with the statement required by Fed. R. Civ. P. 26(a)(2) regarding each expert witness it expects to call to testify at trial pursuant to the provisions of Fed. R. Evid. 702, 703 or 705. Each defendant, counter-defendant, and cross-defendant shall serve its Rule 26(a)(2) statement of the expert witnesses it expects to call to testify pursuant to Fed. R. Evid. 702, 703 or 705 as soon thereafter as practicable, but not later than **March 29, 2010**. If necessary to refute the disclosed opinions of an expert witness of an opponent, a plaintiff, counter-claimant, or cross-claimant may disclose additional expert witnesses not later than **April 15, 2010**, provided that the disclosing party then provides all of the information described in Fed. R. Civ. P. Rule 26(a)(2) and makes each expert witness available for deposition prior to the deposition deadline.

4. Pursuant to Fed. R. Civ. P. 26(a)(3), each party shall serve opposing counsel and file a redacted version as applicable with the following information regarding the evidence it may present at trial other than solely for impeachment purposes as soon as practicable but not later than the date specified:

a. **Nonexpert Witnesses** - On or before **July 1, 2010**: The name, address and telephone number of each witness, separately identifying those whom the party expects to present and those whom the party may call if the need arises.

b. **Deposition Testimony and Discovery** - On or before **July 1, 2010**: the designation of discovery testimony and discovery responses intended to be utilized at trial.

5. **Daubert Motions.** Motions *in limine* challenging the admissibility of expert testimony at trial under Fed. R. Evid. 702, *see Kumho Tire Co., Ltd. v. Carmichael*, 526 U.S. 137 (1999), and *Daubert v. Merrell-Dow Pharm.*, 509 U.S. 579 (1993), shall be filed by **June 14, 2010** and accompanied by a request for a hearing if necessary. Failure to timely move for a hearing may constitute waiver of the request for a hearing.

6. All other provisions of the Final Progression Order (#56) remain in effect.

DATED November 17, 2009.

BY THE COURT:

s/ F.A. Gossett
United States Magistrate Judge